

806 KAR 47:010. Fraud prevention.

RELATES TO: KRS 304.2-140, 304.47-010, 304.47-020, 304.47-040, 304.47-050

STATUTORY AUTHORITY: KRS 304.2-110, 304.47-055, 304.47-080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as established in KRS 304.1-010. This administrative regulation establishes insurer requirements and a comprehensive process for reporting and investigating fraudulent insurance acts.

Section 1. Definitions.

(1) "Division" is defined by KRS 304.47-010(6).

(2) "Special investigative unit" or "SIU" means a unit to investigate fraudulent insurance acts as established by KRS 304.47-080.

Section 2. Scope. This administrative regulation shall apply to all insurers authorized to do business in the Commonwealth that are not otherwise exempted by KRS 304.47-080(1).

Section 3. Primary Anti-fraud Contacts. To facilitate communication with the division, an insurer shall designate two (2) primary contact persons, one (1) of whom shall be the head of the SIU, who shall communicate with the division on matters relating to the reporting, investigation, and prosecution of suspected fraudulent insurance acts, as established in KRS 304.47-020.

Section 4. Special Investigative Units and Anti-fraud Plans.

(1) An insurer shall maintain an SIU to fulfill the requirements of KRS 304.47-080.

(2) In conjunction with its SIU, an insurer shall:

(a) Implement systematic and effective methods to detect and investigate suspected fraudulent insurance claims;

(b) Educate and train all claims handlers to identify possible insurance fraud;

(c) Develop policies for the SIU to cooperate, coordinate, and communicate with:

1. The insurer's claims handlers, legal personnel, technical support personnel, and database support personnel; and

2. The division and other relevant law enforcement agencies; and

(d) Develop and submit to the division a written anti-fraud plan, which shall include:

1. Acknowledgment of duty to report to the division, including mandatory reporting of the determination that a suspected fraudulent act has been committed within fourteen (14) days;

2. SIU contact information;

3. SIU investigative ethics;

4. Procedures to detect and deter fraud; and

5. Continuing education plans for SIU staff.

Section 5. Compliance Report.

(1) Within ninety (90) days of admission, and at least once every two (2) years, an insurer shall submit to the division a written report stating how the insurer is complying with Section 4 of this administrative regulation. The report shall also include:

(a) The total number of SIU investigative staff responsible for cases in Kentucky, and whether or not any staff member also investigate cases in other jurisdictions; and

(b) 1. If the insurer formed the SIU in house and solely governs it, the year that the SIU was formed; or

2. If the insurer has contracted SIU services through another company, the identity of the company providing SIU services and the initial year of the contract between the insurer and the company.

(2) Within thirty (30) days of a material change of the information provided in the compliance report, the insurer shall amend the compliance report and resubmit it to the division.

Section 6. Reporting Fraudulent Insurance Acts.

(1) All persons identified in KRS 304.47-050(2) shall report suspected fraudulent insurance acts to the division within fourteen (14) days of determination that a suspected fraudulent act has been committed. Reports submitted to a person or entity other than the division shall not satisfy the reporting duty of KRS 304.47-050(2). Reports shall be submitted by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

(c) 1. To supplement the report required by this subsection and in addition to the reports required by paragraph (a) or (b) of this subsection, persons identified in KRS 304.47-050(2) may also report suspected fraudulent insurance acts through intermediaries including:

a. the National Association of Insurance Commissioners' Online Fraud Reporting System;

b. The National Health care Anti-Fraud Association; or

c. The National Insurance Crime Bureau.

2. A report submitted through an intermediary shall be subject to the confidentiality provisions in KRS 304.47-055.

(2) All persons identified in KRS 304.47-050(1) shall report suspected fraudulent insurance acts to the division by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

Section 7. Incorporation by Reference.

(1) The "Uniform Suspected Insurance Fraud Reporting Form," 7/2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (22 Ky.R. 154; eff. 9-7-1995; TAm eff. 8-9-2007; 40 Ky.R. 2629; 41 Ky.R. 43; eff. 8-1-2014; 45 Ky.R. 2993; 46 Ky.R. 39, 434; eff. 9-6-2019; 47 Ky.R. 1096, 1581; eff. 5-4-2021.)